REMARKS

Reconsideration of the Application respectfully is requested.

Claims 13, 22, 25, 29 and 32 have been amended to address each of the concerns that were expressed by the Examiner in the Official Action. It respectfully is urged that those skilled in the subject area of technology will have no real difficulty in understanding and practicing the presently claimed subject matter in view of Applicants' detailed teachings. The withdrawal of the objections and the rejection under 35 U.S.C. §112 is in order and respectfully is requested.

The continued rejection of Claims 1, 4 to 6, 8, 10, 11, 16, 19 to 21 and 31 under 35 U.S.C. §102(e) over the different teachings of Publication No. US 2002/0053320 to Duthaler et al. would be inappropriate. It is well established law that patentability is negated under 35 U.S.C. § 102 only when the prior disclosure is identical to the invention sought to be patented. Each and every element of the claimed invention must be disclosed in a single reference in complete detail. See Akzo N.V. v. United States ITC, 808 F.2d 1471, 1 U.S.P.Q.2d 1241 (Fed. Cir. 1986); Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); Rolls-Royce Ltd. v. GTE Valeron Corp., 800 F.2d 1101, 231 U.S.P.Q. 185 (Fed. Cir. 1986); Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986); Great Northern Corp. v. Davir Core & Pad Co., 782 F.2d 159, 228 U.S.P.Q. 356 (Fed. Cir. 1986); In re Donohue, 766 F.2d 531, 226 U.S.P.Q. 619 (Fed. Cir. 1985); W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983); SSIH Equip. S.A. v.

United States ITC, 713 F.2d 746, 218 U.S.P.Q. 678 (Fed. Cir. 1983); and Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 U.S.P.Q. 2d 1913 (Fed. Cir. 1989).

A detailed reading of Duthaler et al. is urged to be in order. The presently claimed subject matter is a new electrochemical transistor device. The Duthaler et al. teachings are directed exclusively to different field effect transistors (FETs). The basic and well-recognized differences between electrochemical transistors and FETs are described in the "Background of the Invention" portion of Applicants' Specification at Pages 1 and 2. The functioning of FETs is fundamentally different from the functioning of electrochemical transistors. Consequently, the subject matter of Duthaler et al. is basically different than that as claimed by Applicants. The withdrawal of the rejection is in order and is respectfully requested.

Similarly, the continued rejection of dependent Claims 12 and 13 under 35 U.S.C. §103(a) over the different teachings of Duthaler et al. in view of those of Kvarnström would be inappropriate. The teachings of the primary reference have nothing to do with an electrochemical transistor device and nothing seen in the teachings of the secondary reference that is capable of overcoming this basic deficiency. These dependent claims include all of the limitations of independent Claim 1.

Likewise the continued rejection under 35 U.S.C. §103(a) of dependent Claims 14 and 15 over the different teachings of Duthaler et al. in view of U.S. Patent No. 6,444,400 to Cloots et al., and Claim 17 over the different teachings of Duthaler et al. in view of U.S. Patent No. 5,347,144 to Garnier et al. will not withstand detailed analysis. The teachings of the primary reference have nothing to do with an electrochemical transistor

device and the teachings of the secondary references are incapable of overcoming this basic deficiency. The dependent claims include all of the limitations of independent Claim 1.

The mere allegation that the differences between the claimed subject matter and the prior art are obvious does not create a presumption of unpatentability. See In re Soli, 317 F.2d 941, 137 U.S.P.Q. 979 (CCPA 1963). Obviousness must be predicated on something more than it would be obvious "to try". See Ex Parte Agrabright et al., 161 U.S.P.Q. 703 (POBA 1967), and In re Mercier, 515 F.2d 1161, 185 U.S.P.Q. 774 (CCPA 1975). It is well-established law that patentability determinations of this type are contrary to the statute. See In re Antonie, 559 F.2d 618, 195 U.S.P.Q. 6 (CCPA 1977); In re Goodwin et al., 576 F.2d 375, 198 U.S.P.Q. 1 (CCPA 1978); and In re Tomlinson et al., 363 F.2d 928, 150 U.S.P.Q. 623 (CCPA 1966).

See also, In re Rothermel et al., 47 C.C.P.A. 866, 125 U.S.P.Q. 328, 331;

> "It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill of art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes. 35 U.S.C. §103 is very specific in requiring that a rejection on the grounds the invention 'would have been obvious' must be based on the subject matter as a whole at the time the invention was made."

The withdrawal of 35 U.S.C. § 103(a) rejections is urged to be in order and respectfully is requested.

If there is any remaining point that requires clarification prior to the allowance of the Application, the Examiner is urged to telephone the undersigned attorney so that the matter can be discussed and resolved at a personal interview.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: Benton S. Duffett Jr.
Benton S. Duffett, Jr.
Registration No. 22,030

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

Date: March 25, 2003

Attachment to Amendment dated March 21, 2003

Marked-up Claims 13, 22, 25, 29, 32 and 33

13. (Amended) An electrochemical transistor device according to claim 12, in which said polymer or copolymer of a 3,4-dialkoxythiophene is selected from the group consisting of poly(3,4-methylenedioxythiophene), [poly(3,4-methylene-dioxythiophene) derivatives,] poly(3,4-ethylenedioxythiophene, [poly(3,4-ethylenedioxythiophene derivatives,] poly(3,4-propylenedioxythiophene), [poly(3,4-propylenedioxythiophene) derivatives,] and poly(3,4-butylenedioxythiophene)[, poly(3,4-butylenedioxythiophene) derivatives, and copolymers therewith].

22. (Amended) A process for the production of a supported electrochemical transistor device comprising:

- forming a source contact,
- forming a drain contact,
- forming at least one gate electrode,
- forming an electrochemically active element arranged between, and in direct electrical contact with[,] the source and drain contacts, [which] wherein said electrochemically active element comprises a transistor channel and is of a material comprising an organic material having the ability of electrochemically altering its conductivity through change of redox state thereof, and

Attachment to Amendment dated March 21, 2003

Marked-up Claims 13, 22, 25, 29, 32 and 33

- forming a solidified electrolyte in direct electrical contact with the electrochemically active element and said at least one gate electrode and interposed between them in such a way that electron flow between the electrochemically active element and said gate electrode(s) is prevented,

[which process comprises deposition of] wherein said contacts, electrode(s), electrochemically active element and electrolyte are deposited directly onto a support.

25. (Twice Amended) A process according to claim 22, in which [device] said organic material comprises a polymer, [which process comprises deposition of] wherein said polymer is deposited on [a] the support through *in situ* polymerisation.

29. (Amended) A process according to claim 26, in which said patterning is performed by mechanical means[, comprising] selected from the group consisting of scratching, scoring, scraping and milling.

32. (Amended) A process according to claim 23, in which [device] said organic material comprises a polymer, [which process comprises deposition of] wherein said polymer is deposited on a support through *in situ* polymerisation.

Attachment to Amendment dated March 21, 2003

Marked-up Claims 13, 22, 25, 29, 32 and 33

33. (Amended) A process according to claim 24, in which [device] said organic material comprises a polymer, [which process comprises deposition of] wherein said polymer is deposited on a support through *in situ* polymerisation.